

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 SEAN MICHAEL LANDRY,

11 Plaintiff,

12 v.
13 MARK THOMAS, *et al.*,

14 Defendants.

CASE NO. C21-1669-JCC

ORDER

15 This matter comes before the Court on Defendant's motion for summary judgment (Dkt.
16 No. 31). Having thoroughly considered the briefing and the relevant record, the Court hereby
17 GRANTS the motion for the reasons explained below.

18 **I. BACKGROUND**

19 The Court stated the facts of this case in a prior order (*see* Dkt. No. 24 at 1–2), and will
20 not restate them here. In that same order, the Court granted Defendants' partial summary
21 judgement motion. (Dkt. No. 24.) All that remained was a single claim against the City of
22 Marysville, (*id.*), who now moves for summary judgement. (Dkt. No. 31.)

23 **II. DISCUSSION**

24 **A. Legal Standard**

25 “The court shall grant summary judgment if the movant shows that there is no genuine
26 dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R.

1 Civ. P. 56(a). In making such a determination, the Court must view the facts in the light most
 2 favorable to the nonmoving party and draw justifiable inferences in that party's favor. *Anderson v.*
 3 *Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). Ultimately, summary judgment is appropriate
 4 against a party who "fails to make a showing sufficient to establish the existence of an element
 5 essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex*
 6 *Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

7 **B. Plaintiff's Remaining Claim Against the City of Marysville**

8 In general, "a local government may not be sued under § 1983 for an injury inflicted
 9 solely by its employees or agents." *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658,
 10 694 (1978). But it may be liable under "when execution of a government's policy or custom,
 11 whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent
 12 official policy, inflicts the injury." *Id.* "Local governing bodies, therefore, can be sued directly
 13 under § 1983 for monetary, declaratory, or injunctive relief where . . . the action that is alleged to
 14 be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision
 15 officially adopted and promulgated by that body's officers." *Id.* at 690.

16 A plaintiff alleging a § 1983 claim may establish a local government's liability by
 17 "prov[ing] that a city employee committed the alleged constitutional violation pursuant to a
 18 formal governmental policy or a longstanding practice or custom which constitutes the 'standard
 19 operating procedure' of the local governmental entity." *Gillette v. Delmore*, 979 F.2d 1342, 1346
 20 (9th Cir. 1992) (internal quotations omitted).¹ "Proof of a single incident of unconstitutional
 21 activity is not sufficient to impose liability under *Monell*, unless proof of the incident includes

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 24 ¹ A plaintiff may also establish that an individual with final policy-making authority
 25 committed the constitutional tort and therefore the action constituted an act of official
 26 governmental policy, or that an official with final policy-making authority ratified a
 subordinate's unconstitutional act or decision. *See Gillette*, 979 F.2d at 1346–47. That being said,
 Plaintiff does not allege that Defendant City of Marysville is liable under either theory. (See
 generally Dkt. Nos. 1, 39.)

1 proof that it was caused by an existing, unconstitutional municipal policy, which policy can be
 2 attributed to a municipal policymaker.” *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 823–24
 3 (1985); *see Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996) (quoting *Gillette*, 979 F.2d 1346)
 4 (noting that, to establish a custom, a plaintiff must show “that his injury resulted from a
 5 permanent and well-settled” practice).

6 Here, Plaintiff argues that the City of Marysville is liable under *Monell* because it “it had
 7 a policy of forcing inmates to self-diagnose their medical conditions and of not intervening
 8 unless there were objectively observable symptoms of serious medical condition.”² (Dkt. No. 39
 9 at 12.) However, the Court has previously found, that in this case, the failure to diagnose
 10 Plaintiff’s condition did not give rise to the level of a constitutional violation, (Dkt. No. 24 at 4),
 11 and Plaintiff provides no case law to suggest otherwise. (*See generally* Dkt. No. 39). Instead,
 12 Plaintiff urges the Court, in a conclusory fashion, to find the City’s alleged policy of relying on
 13 inmates’ initial self-diagnosis to be a constitutional violation. (Dkt. No. 39 at 13.)

14 Viewing the facts in the light most favorable to the Plaintiff, and assuming that the
 15 standard of care offered to the Plaintiff was, in fact, representative of a broader policy, there is no
 16 indication that the City’s policy strays from any industry standard level of care, let alone violated
 17 Plaintiff’s constitutional rights, by relying on an inmate’s self-diagnosis to conduct initial triage.
 18 In fact, the only evidence before the Court, which the City provided in moving for summary
 19 judgment, suggests that any medical system relies heavily on a patient’s subjective assessment of
 20 their own condition. (Dkt. No. 41 at 4.) For the Court to find otherwise here would lead to an

22 ² Ordinarily, there is no affirmative, constitutional duty to provide medical care; neither
 23 awareness of a citizen’s risk of harm, nor expressing an intention to help, confers such a duty on a
 24 government actor. *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200
 25 (1989). Under the special relationship exception, however, an affirmative duty to provide medical
 26 care arises when a state “takes a person into its custody and holds him there against his will” such
 as through “incarceration, institutionalization, or other similar restraint of personal liberty.” *Id.* at
 199–200. Correspondingly, the City of Marysville has “a duty to ensure that detainees are provided
 adequate . . . medical care.” *Shorter v. Baca*, 895 F.3d 1176, 1185 (9th Cir. 2018).

1 absurd result, where Department of Corrections' medical staff would be constitutionally required
2 to predict medical maladies before a patient even exhibits observable symptoms. The Court
3 refuses to adopt this position, and finds that Plaintiff's argument fails as a matter of law.
4 Accordingly, where the Court finds no violation of Plaintiff's rights during his treatment by
5 medical staff, and because the alleged policy, as described by Plaintiff, presents no constitutional
6 violation, there is likewise no *Monell* liability against the City of Marysville.

7 **III. CONCLUSION**

8 For the foregoing reasons, Defendants' motion for summary judgment (Dkt. No. 31) is
9 GRANTED.

10 DATED this 8th day of March 2023.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE